

INDIANA BOARD OF TAX REVIEW

Final Determination Findings and Conclusions Lake County

Petition #: 45-032-02-1-5-00570
Petitioner: Henrietta Nordyke
Respondent: Department of Local Government Finance
Parcel #: 009-09-11-0009-0094
Assessment Year: 2002

The Indiana Board of Tax Review (the Board) issues this determination in the above matter, and finds and concludes as follows:

Procedural History

1. The Department of Local Government Finance (the DLGF) determined that the Petitioner's property tax assessment for the subject property was \$117,200 and notified the Petitioner on March 31, 2004.
2. The Petitioner filed a Form 139L on April 20, 2004
3. The Board issued a notice of hearing to the parties dated November 5, 2004.
4. Special Master Peter Salveson held a hearing on December 8, 2004, in Crown Point, Indiana.

Facts

5. The subject property is located at 8298 Columbia Ave., Dyer. The location is in St. John Township.
6. The subject property is a single-family home on 1.576 acres of land.
7. The Special Master did not conduct an on-site visit of the property
8. Assessed value of subject property as determined by the DLGF:
Land \$31,500 Improvements \$85,700 Total \$117,200.
9. Assessed value requested by Petitioner:
Land \$19,300 Improvements \$85,700 Total \$105,000.

10. Persons sworn in as witnesses at the hearing:
Henrietta Nordyke, Owner
Daniel M. Nordyke, Son
Diane Spenos, DLGF Hearing Officer.

Issues

11. Summary of Petitioner's contentions in support of an alleged error in the assessment:
 - a. The Petitioner contends that there is a pipeline running through the land, and its presence has kept them from adding a garage to the house. *Nordyke testimony; Petitioner Exhibit 6.*
 - b. The Petitioner contends that a neighbor, located at 8275 Columbia Place, was allowed an adjustment for 25% of the land as there is an active pipeline running through his land. *Nordyke testimony; Petitioner Exhibit 4.*
 - c. The Petitioner requests similar consideration for the subject property. *Nordyke testimony.*
12. The Respondent recommended a 25% adjustment on the land based on the pipeline restrictions. *Spenos testimony.*

Record

13. The official record for this matter is made up of the following:
 - a. The Petition,
 - b. The tape recording of the hearing labeled Lake County #936,
 - c. Exhibits:
Petitioner Exhibit 1-3: Form 139L Petition,
Petitioner Exhibit 4: IN Residential Property Record Card (Tract 10, Kotecki),
Petitioner Exhibit 5: IN Residential Property Record Card (Tract 8, Nordyke),
Petitioner Exhibit 6: Plat of Survey,
Petitioner Exhibit 7: Notice of Dept. Assessed Value Determination,
Respondent Exhibit 1: Form 139L Petition,
Respondent Exhibit 2: Subject property record card,
Respondent Exhibit 3: Subject property photo,
Board Exhibit A: Form 139L Petition,
Board Exhibit B: Notice of Hearing,
Board Exhibit C: Sign-in sheet,
 - d. These Findings and Conclusions.

Analysis

14. The most applicable governing cases are:
 - a. A Petitioner seeking review of a determination of an assessing official has the burden to establish a prima facie case proving, by preponderance of the evidence, that the current assessment is incorrect, and specifically what the correct assessment would be. *See Meridian Towers East & West v. Washington Twp. Assessor*, 805 N.E.2d at

475, 478 (Ind. Tax Ct. 2003); see also, *Clark v. State Bd. Of Tax Comm'rs*, 694 N.E.2d 1230 (Ind. Tax Ct. 1998).

- b. In making its case, the taxpayer must explain how each piece of evidence is relevant to the requested assessment. See *Indianapolis Racquet Club, Inc. v. Washington Twp. Assessor*, 802 N.E.2d 1018, 1022 (Ind. Tax Ct. 2004) (“[I]t is the taxpayer's duty to walk the Indiana Board . . . through every element of the analysis”).
 - c. Once the Petitioner establishes a prima facie case, the burden shifts to the assessing official to rebut the Petitioner's evidence. See *American United Life Ins. Co. v. Maley*, 803 N.E.2d 276 (Ind. Tax Ct. 2004). The assessing official must offer evidence that impeaches or rebuts the Petitioner's evidence. *Id.*; *Meridian Towers*, 805 N.E.2d at 479.
15. The Petitioner provided sufficient evidence to support the Petitioner’s contentions. The Respondent did not rebut the Petitioner’s testimony and other evidence. This conclusion was arrived at because:
- a. The Petitioner presented evidence that there is an active pipeline running through the land of the subject property. *Nordyke testimony; Petitioner Exhibit 6.*
 - b. The Petitioner presented evidence that a neighbor received a 25% reduction for pipeline restrictions. *Nordyke testimony; Petitioner Exhibit 4*
 - c. The Respondent did not rebut the Petitioner’s evidence, but recommended a reduction of 25% for the land value. *Spenos testimony.*

Conclusion

16. The Petitioner made a prima facie case. The Respondent did not rebut the Petitioner’s evidence. The Board finds in favor of Petitioner and concludes that a 25% negative adjustment should be applied to the land value of the subject property.

Final Determination

In accordance with the above findings and conclusions the Indiana Board of Tax Review now determines that the assessment should be changed.

ISSUED: _____

Commissioner,
Indiana Board of Tax Review

IMPORTANT NOTICE

- APPEAL RIGHTS -

You may petition for judicial review of this final determination pursuant to the provisions of Indiana Code § 6-1.1-15-5. The action shall be taken to the Indiana Tax Court under Indiana Code § 4-21.5-5. To initiate a proceeding for judicial review you must take the action required within forty-five (45) days of the date of this notice. You must name in the petition and in the petition's caption the persons who were parties to any proceeding that led to the agency action under Indiana Tax Court Rule 4(B)(2), Indiana Trial Rule 10(A), and Indiana Code § 4-21.5-5-7(b)(4), § 6-1.1-15-5(b). The Tax Court Rules provide a sample petition for judicial review. The Indiana Tax Court Rules are available on the Internet at <http://www.in.gov/judiciary/rules/tax/index.html>, The Indiana Trial Rules are available on the Internet at http://www.in.gov/judiciary/rules/trial_proc/index.html. The Indiana Code is available on the Internet at <http://www.in.gov/legislative/ic/code>.